

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

EVAN ALLEN BESTON,

Defendant.

CR 07-73-GF-BMM

**ORDER**

This case was referred to United States Magistrate Judge John Johnston for a revocation hearing and findings and recommendations. Judge Johnston entered his findings and recommendations on September 14, 2015. Defendant admitted he had violated Special Condition 1 of his supervised release by failing to report for substance abuse testing, he had violated Special Condition 2 of his supervised release by failing to complete a program of substance abuse treatment, he had violated Special Condition 5 of his supervised release by consuming alcohol, and he had violated Special Condition 10 of his supervised release by failing to make restitution payments as directed. Judge Johnston found the admissions sufficient to establish the supervised release violations. He recommended that this Court revoke Defendant's supervised release and commit him to the custody of the United States Bureau of Prisons for a term of imprisonment of seven months, with no supervised release to follow.

No objections were filed by either party. Judge Johnston's findings and recommendations are therefore reviewed for clear error. *McDonnell Douglas Corp. Commadore Bus. Mach, Inc.*, 656 F.2d 1309, 1319 (9th Cir. 1981).

This Court agrees with Judge Johnston's findings. Defendant admitted he had violated Special Conditions 1, 2 , 5 and 10. Defendant could be incarcerated for up to 36 months, followed by 40 months of supervised release less any custody time imposed. The United States Sentencing Guidelines call for a term of imprisonment of four to ten months. A sentence of seven months in custody, followed by no supervised release is appropriate. Defendant has violated the terms of his supervised release on two prior occasions. The sentence is sufficient but not greater than necessary.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 62) are ADOPTED in full and Judgment shall be entered accordingly.

DATED this 29th day of September, 2015.



Brian Morris  
United States District Court Judge